

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MARIA G. JUAREZ,

Case No. 2:13-CV-2154 JCM (VCF)

Plaintiff(s),

ORDER

V.

CAROLYN W. COLVIN,

Defendant(s).

Presently before the court are Magistrate Judge Ferenbach's report and recommendation. (Doc. # 19). Plaintiff Maria G. Juarez filed an objection (doc. # 20) and plaintiff filed a response (doc. # 21).

16 This matter involves plaintiff Maria Juarez's appeal from defendant Carolyn W. Colvin's
17 final decision denying plaintiff social security administration benefits. Plaintiff claimed a
18 disability based on lower back pain, retinopathy, diabetic neuropathy, asthma, diabetes mellitus
19 (type II), bilateral knee malalignment, degenerative bone disease, degenerative disk disease,
20 bilateral wrist pain, sleep interference, and depression, along with other mental disorders. Plaintiff
21 filed a motion to remand to the social security administration (doc. # 15), and defendant filed a
22 cross-motion to affirm (doc. # 16).

Plaintiff appeals the social security administration commissioner's denial of benefits on two grounds. First, plaintiff argues that the administrative law judge's ("ALJ") residual functional capacity assessment lacks the support of substantial evidence because the ALJ allegedly erred by (1) finding that plaintiff's mental impairments were not severe; (2) not including even mild mental impairments in his assessment and a hypothetical to the vocational expert; and (3) not finding a more restrictive residual functional capacity for plaintiff based on physical impairments. Second,

1 plaintiff argues that the ALJ's credibility evaluation lacks the support of substantial evidence
2 because the ALJ allegedly failed to articulate sufficient reasons to discount plaintiff's testimony.

3 On April 24, 2015, Magistrate Judge Ferenbach recommended that the court grant
4 plaintiff's motion to remand (doc. # 15) and deny defendant's cross-motion to affirm (doc. # 16).
5 Further, Magistrate Judge Ferenbach recommended that the ALJ's decision, adopted by defendant,
6 be remanded for further administrative proceedings to determine whether plaintiff has mild mental
7 limitations that must be posed as a part of the hypothetical to a vocational expert.

8 This court "may accept, reject, or modify, in whole or in part, the findings or
9 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects
10 to a magistrate judge's report and recommendation, then the court is required to "make a de novo
11 determination of those portions of the [report and recommendation] to which objection is made."
12 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct
13 "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S.
14 140, 149 (1985).

15 The court finds that Magistrate Judge Ferenbach did not err in his conclusions or
16 recommendations. Therefore, after reviewing Magistrate Judge Ferenbach's report, defendant's
17 objections, plaintiff's response, and the underlying briefs de novo, the court adopts the report and
18 recommendation in full.

19 Accordingly,

20 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
21 Ferenbach's report and recommendation (doc. # 19) be, and the same hereby are, ADOPTED in
22 full.

23 IT IS FURTHER ORDERED that plaintiff's motion to remand to the social security
24 administration (doc. # 15) be, and the same hereby is, GRANTED.

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1 IT IS FURTHER ORDERED that defendant's cross-motion to affirm be, and the same
2 hereby is, DENIED.

3 DATED July 1, 2105.

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5 UNITED STATES DISTRICT JUDGE

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